

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICK SILLMAN,

Plaintiff,

No. CIV S-01-1375 FCD GGH P

vs.

C/O JOHNS,

Defendant.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 27, 2005, the magistrate judge recommended that defendants' summary judgment motion be granted based on plaintiff's failure to oppose the motion. In the alternative, the magistrate judge found that defendants' motion had merit. The findings and recommendations herein were served on all parties and contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days.

On October 3, 2005, plaintiff filed a document entitled "plaintiff's notice of change of address and objections to defendants' motion for summary judgment." The court construes this unverified document to contain objections to the findings and recommendations.

1 In this document, plaintiff suggests that he was unable to file timely objections because he  
2 recently moved. Accordingly, the court will deem the objections to be timely filed.

3 The court has reviewed the file and finds the findings and recommendations to be  
4 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY  
5 ORDERED that:

- 6 1. The findings and recommendations filed July 27, 2005, are adopted in full;  
7 2. Defendant's April 28, 2005, motion to dismiss pursuant to Fed. R. Civ. P.  
8 12(b) is denied; and  
9 3. Defendant's April 28, 2005, motion for summary judgment is granted.

10 DATED:October 12, 2005

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12 /s/ Frank C. Damrell Jr.  
13 FRANK C. DAMRELL JR.  
14 United States District Judge  
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